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EXAMINER	
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ART UNIT	**PAPER NUMBER**
2167	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/633,290	GUPTA ET AL.	
	Examiner	Art Unit	
	Robert M. Timblin	2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 March 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *22-39* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *22-39* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This action corresponds to application 10/633,290 filed 8/1/2003.

Claims 1-21 have been canceled and claims 22-39 are pending.

Claim Rejections - 35 USC § 112

Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant fails to distinctly define the variables used in calculating the shipment quality metric of this claim.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 33-37 remain rejected under 35 USC 101 because they purport to claiming computer signals, which do not belong to any of the 4 enumerated statutory classes of invention.

Claim 33 covers a carrier signal itself rather than a tangible, physical article or object, which may include the signal. Claim 33 covers embodiments which are a form of energy (e.g., radiation, waves and signals) and which are not structurally and functionally interconnected with the instructions carried thereby in a manner which enables the instructions to act as a computer component and realize their functionality. Hence, the

claim is not limited to embodiments which fall within a statutory category of invention and should be rejected under 101.

These claims are not statutory because claims that recite nothing but the physical characteristics of a form of energy such as frequency, voltage, or the strength of a magnetic field, defined energy or magnetism, per se and as such are nonstatutory natural phenomena. O'Reilly 56 U.S. at 112-114. Moreover it does not appear that a claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in 35 USC section 101.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 22, 24, 26-31, 33-34, and 36-39 are rejected under 35 U.S.C. 102(e) as being unpatentable over **Kennedy et al.** ('Kennedy' hereinafter) (U.S. Patent 6,963,847 B1) in view of **Kennedy et al**. ("Kennedy 2" hereinafter) (U.S. Patent 6,055,519).

With respect to claim 22, Kennedy teaches An automated method for visually displaying product production information and notifications in real-time comprising:

automatically querying a database for production data for each order scheduled for production (abstract) that includes a product category of each order (col. 12, lines 45-50), a promised shipping date for each order (col. 12 lines 34-35), a requested shipping date for each order (col. 12 lines 42-44), and an expected sales revenue for each order (col. 12, lines 50-53), by a seller in real-time (columns 7-8 lines 64-8 respectively);

automatically determining a shipment quality metric for all orders that have shipped (col. 14, lines 55-60, col. 25, lines 25-39 and col. 33, lines 42-55); and

automatically displaying generated proactive alerts (col. 33, lines 33-40), the number of orders (order quantity; col. 7 lines 40-45) for each product category ((3) category; col. 7 lines35-36 and line-items; col. 12 line 45-50 and col. 17 line 34-44),

the expected revenue for each order and the shipment quality metric in a tabular format on a user viewable medium (col. 17, line 17-44, col. 19, line 34-35 and col. 20 line 56-67).

Kennedy fails to expressly disclose for each order, automatically comparing the promised shipping date and the requested shipping date and for each order, automatically generating a proactive alert if the promised shipping date is later than the requested shipping date;

Kennedy2, however, teaches for each order, automatically comparing the promised shipping date and the requested shipping date (column 7, lines 54-67 and column 14, lines 52-65) to compare the delivery date and the promised date; and

for each order, automatically generating a proactive alert if the promised shipping date is later than the requested shipping date (at least in col. 7 lines 55-60 and col. 17 lines 59-61) for indicating delivery schedule problems.

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine the teachings of the cited references because the teachings of the Kennedy 2 reference would have given Kennedy further aid in the over all aspects of conducting and tracking of negotiations of the product (Kennedy 2 at column 2, lines 41-47).

With respect to claim 24, Kennedy teaches the method of claim 22 further comprising creating a plurality of display forms, wherein each display form depends on a number of days before the product is available (col. 17, line 15-20, col. 23 line 15-20 and col. 29 line 10-16).

With respect to claim 25, the method of claim 22 further comprising:

determining an acceptance range (col. 17, line 50-64); and

displaying a percentage of times the shipment quality metric is outside the acceptance range (col. 17 line 55-60).

With respect to claim 26, Kennedy teaches A computer-readable medium having stored thereon one or more computer programs that, when executed by one or more computers, causes the one or more computers to:

query a database for production data for each order scheduled for production (abstract) that includes a product category of each order (col. 12, lines 45-50), a promised shipping date for each order (col. 12 lines 34-35), a requested shipping date for each order (col. 12 lines 42-44), and a revenue for each order (col. 12, lines 50-53), by a seller in real-time (columns 7-8 lines 64-8 respectively);

create a sum of orders for all orders in a determined period of time (col. 17 lines 34-44); create a sum of revenue for the sum of orders (col. 20, lines 60-65);

create a proactive alert if the promised shipping date is later than the requested shipping date for each order (col. 33, lines 33-40);

determine a shipment quality metric for shipped orders (col. 14, lines 55-60, col. 25, lines 25-39 and col. 33, lines 42-55); and

display the sum of products in production, the sum of products in production for each product category (col. 10 line 40-50), the sum of revenue (col. 21 line 35-42), the proactive alert for each order (col. 33, lines 33-40), and the shipment quality metric (col. 14, lines 55-60, col. 25, lines 25-39 and col. 33, lines 42-55) in a tabular format on a user viewable medium (col. 19, line 34-35).

With respect to claim 27, Kennedy teaches the computer-readable medium of claim 26 wherein the

one or more programs further causes the one or more computers to:

query the database for saleable products in inventory (abstract); and

determine a date each saleable product is available for shipment (col. 21, lines 25-27).

With respect to claim 28, Kennedy teaches the computer-readable medium of claim 27 wherein the one or more computer programs further causes the one or more computers to:

determine a number of days between a current date and the date each saleable product is available for shipment (col. 17, lines 30); and

Kennedy fails to disclose display a user-defined message for each determined number of days.

Kennedy2, however, teaches to display a user-defined message for each determined number of days (col. 17, line 58col. 18 line 9).

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine the teachings of the cited references because the teachings of the Kennedy 2 reference would have given Kennedy further aid in the over all aspects of conducting and tracking of negotiations of the product (Kennedy 2 at column 2, lines 41-47).

With respect to claim 29, Kennedy teaches the computer-readable medium of claim 28 wherein a

first message is displayed if the number of days before the product is available is greater than a user-defined number and a second message is displayed if the number of days before the product is available is less than a user-defined number (col. 10, lines 40-50, col. 11 line 38-58, and col. 19 line 20-23).

With respect to claim 30, Kennedy teaches the computer-readable medium of claim 26 wherein the shipment quality metric is processed to provide a statistical measure of process capability (col. 25, lines 17-31 and col. 17 lines 55-60).

With respect to claim 31, Kennedy teaches the computer-readable medium of claim 26 wherein the shipment quality metrics are regularly re-processed (col. 32, lines 25-35).

With respect to claim 33, Kennedy teaches A computer data signal representing a sequence of instructions that, when executed by one or more processors, cause the one or more processors to:

query and update a database containing product production data (abstract, col. 13 line 10-13 and col. 15 line 59-67);

periodically obtain from the database a product category of each order (col. 12, lines 45-50), a promised shipping date for each order (col. 12 lines 34-35), a requested shipping date for each order (col. 12 lines 42-44), and a projected revenue for each order (col. 30 line 35-60);

calculate a total revenue for the orders in production for each product category (col. 17 line 5-44 and col. 21 line 40-45); and

display, in a table, the total revenue (col. 19 line 30-35 and col. 20 line 56-65) and a proactive alert for each difference if the promised shipping date is later than the requested shipping date (col. 31 line 35-45).

Kennedy fails to expressly disclose calculating a calculate a difference between the promised shipping date and the requested shipping date for each order;

Kennedy2, however, teaches for each order, automatically comparing the promised shipping date and the requested shipping date (column 7, lines 54-67 and column 14, lines 52-65) to compare the delivery date and the promised date.

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine the teachings of the cited references because the teachings of the Kennedy 2 reference would have given Kennedy further aid in the over all aspects of conducting and tracking of negotiations of the product (Kennedy 2 at column 2, lines 41-47).

With respect to claim 34, Kennedy teaches the computer data signal of claim 33 wherein the one or more processors are further caused to determine a quality metric for each category and display the quality metric in the table (abstract and col. 19 line 30-35).

With respect to claim 36, Kennedy teaches the computer data signal of claim 33 wherein the one or more processors is caused to obtain data every time information is requested (abstract).

With respect to claim 37, Kennedy teaches the computer data signal of claim 33 wherein the table that the data is displayed in comprises a plurality of display forms, wherein each display form depends on the number of days before the product is available (col. 2, lines 28-40 and col. 18 line 50-60).

With respect to claim 38, Kennedy teaches the method of claim 22 further comprising:

for each order, automatically generating another proactive alert if the request date is within a preset number of days from a current date (col. 17, lines 30); and

automatically displaying generated proactive alerts in a tabular format on the user viewable medium (col. 21 line 5-11).

With respect to claim 39, Kennedy fails to teach the method of claim 38 further comprising automatically generating the another proactive alert if the request date is within two days from the current date.

Kennedy 2, however teaches automatically generating the another proactive alert if the request date is within two days from the current date (col. 13, line 63-67).

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine the teachings of the cited references because the teachings of the Kennedy 2 reference would have given Kennedy further aid in the over all aspects of conducting and tracking of negotiations of the product (Kennedy 2 at column 2, lines 41-47).

Claim 23, 32, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Kennedy and Kennedy 2 as applied to claims 22, 24, 26-31, 33-34, and 36-39 above and further in view of Khan (U.S. Patent 6,507,766).

With respect to claims 23 and similar 32, the Kennedy fails to teach the shipment quality metric formula: $$Z_{LT} = \min\left[\frac{USL-\mu}{\sigma}, \frac{\mu-LSL}{\sigma}\right]$$

However, this formula is substantially found in Khan (col. 2 line 25-60 and figures 2 and 3, drawing references 100-300) as calculating a long term Z score for a quality measure.

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine the teachings of the cited references because the teaching of

Khan would have provided Kennedy and Kenney 2's system with producing a measure of quality (Khan, Col. 2 lines 10-20).

Claims 32 and 35 contain essentially the same subject matter and therefore the rejection of claims 23 applies equally well to these claims.

Response to Arguments

Applicant's arguments filed in the Pre-Appeal have been fully considered but they are not persuasive.

Applicant argues on page 2 of the response that Kennedy fails to teach a shipment quality metric for all orders that have shipped. The Examiner respectfully disagrees given the following:

In accordance with the above rejection, Kennedy teaches this limitation (col. 14, lines 55-60, col. 25, lines 25-39 and col. 33, lines 42-55). Specifically, Kennedy teaches delivery details of an ATP request. Such details of this request include ship complete, partial/cancel or ship on-time (col. 14, lines 55-60). Further, and for example, a ship complete attribute indicates that the request has been bet in full (col. 16 lines 57-58). At least the ship complete, partial/cancel, or ship on-time attributes clearly teach a way to measure (i.e. a metric) if a product has made it to its destination (i.e. ship complete attribute).

Moreover, Kennedy teaches monitoring shipment confirmations, such as checking when an ATP request has been fully shipped (col. 33 line 50-52). Here again, Kennedy specifies a shipment quality metric.

With respect to Applicant's arguments that Kennedy fails to teach displaying a total revenue and proactive alert in a table (response at page 4), the Examiner respectfully submits that Kennedy produces a multi-dimensional quotation (col. 19 line 34-49) that includes attributes such as the total price (col. 20 line 62) and proactive alerts (col. 21 lines 5-10 and col. 18, line 55-60). Furthermore, individual line-item quotes can be computed (col. 17, line 15-20), thus suggesting multiple display forms. The Examiner also respectfully submits that Kennedy's line-items teach and suggest the presently claimed product categories. Individual line-item quotes would include that total revenue for that quantity of a line item (as taught by Kennedy, col. 17 line 30-44).

Further arguments presented by Applicant are rendered moot based on the new grounds of rejection necessitated by a different interpretation of the applied references.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Timblin whose telephone number is 571-272-5627. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jean R. Homere can be reached on 571-272-3780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert M. Timblin

Patent Examiner AU 2167

RMT
4/18/2007

ALFORD KINDRED
PRIMARY EXAMINER